

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>In re Application of: Bennett</b>	)	Art Unit: 2626
	)	
Serial No.: 10/653,039	)	Examiner: Martin Lerner
	)	
<i>Filed: August 29, 2003 as continuation-in-part of</i>	)	
<i>09/439,145 filed November 12, 1999, now U.S.</i>	)	
<i>patent 6,633,846</i>	)	
	)	
For: <i>Query engine for processing voice based</i>	)	
<i>queries including semantic decoding</i>	)	

RESPONSE TO NOTICE OF IMPROPER REQUEST FOR RCE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450


Sir:

In response to the Notice of Improper Request for Continued Examination mailed April 27, 2009, Applicant respectfully submits the following response.

The Notice states that the request was not accompanied by a submission as required by 37 C.F.R. 1.114. A copy of the same is attached hereto. This statement is not accurate and appears to be an oversight by the PTO. In fact the RCE papers as filed specifically point out that Response D After Final was to be entered into the record, as such submission, containing new arguments for patentability, was *not* previously entered by the Examiner.

Accordingly the requirements for the RCE were satisfied and Applicant respectfully requests formal acknowledgement of the RCE filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Nicholas Gross". The signature is fluid and cursive, with the first name "J." being small and the last name "Gross" being larger and more prominent.

J. Nicholas Gross, Attorney, Reg. No. 34, 175

May 1, 2009  
2030 Addison Street  
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Tel. (510) 540 - 6300  
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<b>NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)</b>	<b>Application No.</b> 10/653,039	<b>Applicant(s)</b> BENNETT, IAN M.	
		<b>Art Unit</b> 2600	<b>Date Mailed:</b>

The request for continued examination (RCE) under 37 CFR 1.114 filed on 23 April, 2009 is improper for reason(s) indicated below:

1. ☐ Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. ☐ Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. ☐ Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. ☐ The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. ☐ The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. ☐ The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. ☒ The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date **on or after June 8, 1995** will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

***A copy of this Notice MUST be returned with the reply.***

Direct any questions concerning this notice to

/DAVINA G. BUTLER/, Technology Center 2600

Telephone Number: (571)272-7236

# **REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL** **(Submitted Only via EFS-Web)**

Application Number	10/653,039	Filing Date	2003-08-29	Docket Number (if applicable)	PHO 99004CIP	Art Unit	2626
First Named Inventor	Bennett			Examiner Name	Martin Lemer		

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

## **SUBMISSION REQUIRED UNDER 37 CFR 1.114**

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

☒ Other RESPONSE D AFTER FINAL filed February 2, 2009

☐ Enclosed

☐ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☐ Other \_\_\_\_\_

## **MISCELLANEOUS**

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months \_\_\_\_\_  
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other \_\_\_\_\_

## **FEES**

☒ The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.  
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to  
Deposit Account No 504899

## **SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

☒ Patent Practitioner Signature

☐ Applicant Signature